

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.254 of 2006

ORAL ORDER:

This Writ Petition is filed challenging the Award dated 13-7-2004 passed in I.D.No.19 of 2002 on the file of Labour Court-III, Andhra Pradesh, Hyderabad.

Petitioner is the Management and respondent No.2 is the workman.

It appears, 2nd respondent was appointed as a Conductor in the A.P. State Road Transport Corporation in the year 1979 and working as such. While so, when he was conducting the bus No.4832 on 15-1-2000 on route Yadagirigutta to Nalgonda, a check was exercised by the checking officials of the Corporation at stage No.4 and found certain cash and ticket irregularities. Thereafter, the 2nd respondent-workman was issued with a charge sheet and explanation was called for. Having not satisfied with the explanation submitted by the workman, enquiry was ordered into the matter. After conducting a detailed enquiry, the Enquiry Officer submitted his report stating that the charges framed against the workman were proved. Basing on the said report, a show cause notice was issued to the workman. After receiving the explanation, the workman was removed from service by an Order dated 16-8-2000. It appears, the appeal and the review petition filed by the workman were rejected. Thereafter, the 2nd respondent-workman filed a claim petition under Section 2-A(2) of the Industrial Disputes Act, 1947 before the Labour Court-III, Hyderabad. It was his case that the enquiry was not properly conducted and the Enquiry Officer has not considered the circumstances existed at the time of check. Wrong punching was done because of eye defect and

due to breakage of glasses. The charges are trivial in nature and assuming that they are proved, the punishment of removal from service is shockingly disproportionate to that of the misconduct alleged against him. The Management filed a counter before the Labour Court denying the allegations made by the workman. It was asserted that the enquiry was properly conducted after affording full opportunity to the workman. The Enquiry Officer, after appreciation of the evidence on record, came to the conclusion that the charges are proved and the disciplinary authority also rightly came to the conclusion that the workman deserves the punishment of dismissal from service. No interference could be made by the Labour Court under Section 2-A(2) of the Act. No oral or documentary evidence was adduced by the workman before the Labour Court. However, the Management marked the documents Exs.M1 to M19, but no oral evidence was adduced. After a detailed consideration of the entire evidence available before it, the Labour Court came to the conclusion that wrong punching was done in respect of Rs.30/- denomination tickets due to defective vision only and the workman performed duties without way bill by mistake and not otherwise. He was not charged for any misappropriation of the amount and no misconduct was established in the circumstances of the case. The workman was removed basing on the charges enumerated in the charge sheet. Further, the workman has not committed misconduct to cause loss to the Corporation. In this regard, the Labour Court also relied upon certain decisions of this Court and ultimately directed reinstatement of the workman with continuity of service and back wages, but without any attendant benefits and further directed the management to stop two increments with cumulative effect and it was also held that the suspension period shall not be counted for any purpose. Aggrieved by the same, the Management filed the

present Writ Petition.

Sri V.T.M. Prasad, learned standing counsel for the petitioner-Corporation, strenuously contended that inasmuch as 8 charges were levelled against the respondent-workman and they were all proved in full. However, the Labour Court erroneously held that the misconduct is only wrong punching of Rs.30/- denomination ticket due to defective vision of the workman; therefore, that could not have been the basis for removal of the workman from service and as such, the same was shockingly disproportionate, which is not true. All the charges are very serious and charge Nos.4 and 6, which were proved, themselves would indicate the seriousness of the charges levelled against the workman. Further, the punishment imposed by the disciplinary authority, which is confirmed by the appellate and revisional authorities, is neither said to be disproportionate to that of the misconduct proved against the workman nor the workman is said to be entitled for any back wages and attendant benefits as awarded by the Labour Court. The entire Award passed by the Labour Court is erroneous and is liable to be set aside.

Sri Balachary, learned counsel appearing for the 2nd respondent-workman, supported the Award passed by the Labour Court and contended that the Labour Court has rightly come to the conclusion that the misconduct alleged against the workman was wrong punching/noting of Rs.30/- denomination tickets. That occurred due to defective vision of the workman and breaking of glasses. Therefore, the Labour Court rightly appreciated the evidence on record and held that the workman is not guilty of the charges and thus passed Award directing reinstatement of the workman into service with back wages; however, denied the attendant benefits and further directed to impose a punishment of stoppage of two increments with cumulative effect,

which itself is not warranted. Hence, the Award passed by the Labour Court does not call for any interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Award and other material made available on record.

The charges as contended by the learned counsel for the petitioner are really grave in their nature and the Labour Court has not properly appreciated those charges in detail. Charge No.4 is that the workman failed to show the sold out tickets in the SR at stage No.7 i.e. Nalgonda and similarly in other stages, which constitutes a misconduct. That means, though the tickets were issued, they were not entered in the SR. Thus, there was a possibility of the tickets being re-issued by the workman. Further, charge No.6 is that the workman closed SR from stage No.6 to 4 as 132 and from stage No.4 to 5 shown as 135, but not shown the ticket issued and from stage No.3 to stage No.1, i.e. Yadagirigutta, shown the same column as 124. This itself shows that the workman has not accounted the tickets properly. Therefore, it cannot be said that the workman was innocent and he is also entitled for back wages while ordering reinstatement by the Labour Court. May be, in view of long service rendered by the workman, he is entitled for reinstatement with continuity of service, but awarding of full back wages cannot be said to be a reasonable award passed by the Labour Court while exercising its powers under Section 11-A of the Act and the ends of justice would be met, if 25% of back wages are awarded to the workman instead of full back wages. Therefore, I deem it appropriate to modify the Award passed by the Labour Court to be read as under:

“In the result, an Award is passed by setting aside the removal Order dated 16-8-2000 passed against the workman.

The Management shall reinstate the workman with continuity of service and only 25% of the back wages, but without any attendant benefits. Further, the workman shall be imposed with a punishment of stoppage of two increments with cumulative effect and the period of suspension shall not be counted for any purpose.”

With the above modification in the Award passed by the Labour Court, the Writ Petition is disposed of. No order as to costs.

23-3-2007

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(B.O.)
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